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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/045,448 | 10/25/2001 | Kazuhiro Oyagi | 7217/65953 | 4285 |
| 7590 | 03/29/2005 | | EXAMINER | |
| COOPER & DUNHAM LLP 1185 Avenue of the Americas New York, NY 10036 | | | WARE, CICELY Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2634 | |

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/045,448 | OYAGI, KAZUHIRO |
| | Examiner | Art Unit |
| | Cicely Ware | 2634 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 October 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1-4 and 7 is/are allowed.
 6) Claim(s) 5 and 6 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 25 October 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The disclosure is objected to because of the following informalities:
 - a. Pg. 2, line 18, applicant uses the phrase "wherein the services fees".
Examiner suggests using "wherein the service fees" for clarification purposes.
 - b. Pg. 4, line 8, applicant uses the phrase "which had been being received".
Examiner suggests using "which had been received" for clarification purposes.
Appropriate correction is required.
2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claim 5 is rejected under 35 U.S.C. 102(a) as being anticipated by Tuoriniemi et al. (US Patent 5,978,689).

With regard to claim 5, Tuoriniemi et al. discloses a broadcasting method for digital audio broadcasting, comprising the step of multiplexing at least one main program and at least one sub program, wherein the sub program comprises an

information service program including a commercial message or news (col. 13, lines 12-25, 43-56).

5. Claim 6 is rejected under 35 U.S.C. 102(a) as being anticipated by Zumkeller (US Patent 6,088,349).

With regard to claim 6, Zumkeller discloses A broadcasting method for digital audio broadcasting for multiplexing digital audio data for a plurality of channels, comprising the step of broadcasting commercial digital audio data repetitively using at least one channel from among the plurality of channels (col.1, lines 7-10, 21-24, col. 2, lines 31-37, col. 5, lines 43-48, 51-55, col. 6, lines 8-13).

Allowable Subject Matter

6. Claims 1-4 and 7 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter: The instant application discloses a digital audio broadcasting receiver. Prior art references show similar methods but fail to teach: **“a switching circuit for switching between the stored program data to be output from the program data storage circuit and the other program data which is not stored”**, as in claim 1; **“a switching circuit for selectively extracting the program digital audio data output from the decoder circuit and the commercial digital audio data stored in the memory circuit”**, as in claim 7.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cicely Ware whose telephone number is 571-272-3047. The examiner can normally be reached on Monday – Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on 571-272-3056. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Cicely Ware

cqw
March 17, 2005

Amanda Le
AMANDA T. LE
PRIMARY EXAMINER